

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MELISSA A. SADOWSKI and ANTHONY R.
SADOWSKI,

Plaintiffs,

vs.

ACE HARDWARE CORPORATION,

Defendant.

Civil Action No.

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant Ace Hardware Corporation (“AHC”), by its undersigned counsel, hereby files this Notice of Removal pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446 in the Office of the Clerk of the United States District Court for the Eastern District of Pennsylvania, for removal of the above-captioned litigation from the Court of Common Pleas, Philadelphia County, Pennsylvania Trial Division, Case ID No.: 181102708, where it is now pending to the United States District Court for the Eastern District of Pennsylvania.

INTRODUCTION

1. This action was brought against AHC by Plaintiffs, Mellissa A. Sadowski and Anthony R. Sadowski (collectively, “Plaintiffs”) to recover damages sustained as a result of an October 3, 2018 automobile accident. Plaintiffs are citizens of Pennsylvania, and AHC is a citizen of Illinois and Delaware. Because there is complete diversity and the amount in controversy exceeds \$75,000.00, this Court may exercise removal jurisdiction over the action pursuant to 28 U.S.C. §§ 1441(a) and (b).

PARTIES

2. As stated in the Complaint, Plaintiffs, at the time this action was commenced, were and still are citizens and domiciliaries of the State of Pennsylvania, residing the Warminster, Pennsylvania. (See Plaintiffs' Complaint ("Complaint") at ¶ 1, attached hereto as Exhibit A).

3. AHC is a Delaware corporation, with its principal place of business in Oak Brook, Illinois. (Id. at ¶ 2).

PROCEEDINGS TO DATE

4. On November 27, 2018, Plaintiffs filed a Complaint styled Melissa A. Sadowski and Anthony R. Sadowski v. ACE Hardware Corporation, Case ID No.: 181102708, in the Court of Common Pleas, Philadelphia County, Pennsylvania Trial Division.

5. In accordance with Fed. R. Civ. P. 81(c)(2)(C), AHC will file a responsive pleading within seven (7) days after this Notice of Removal is filed.

TIMELINESS

6. On or about December 11, 2018, AHC's registered agent was served with a copy of the Summons and Complaint. (See Certification of Catherine G. Bryan, Esq. ("Bryan Cert.") at ¶ 2, attached hereto as Exhibit B).

7. AHC timely filed this Notice of Removal within thirty (30) days of its receipt of the Summons and Complaint as required by 28 U.S.C. § 1446(b).

GROUND FOR REMOVAL

8. A natural person is deemed to be a citizen of the state where they are domiciled. Swiger v. Allegheny Energy, Inc., 540 F.3d 179, 182 (3d Cir. 2008) (citation omitted). To be

domiciled in a state, a person must reside there and intend to remain indefinitely. Krasnov v. Dinan, 465 F.2d 1298, 1300-01 (3d Cir. 1972). A person may have only one domicile, and thus may be a citizen of only one state for diversity jurisdiction purposes. See Williamson v. Osenton, 232 U.S. 619 (1914).

9. As stated in the Complaint, Plaintiffs, at the time this action was commenced, were and still are citizens and domiciliaries of the State of Pennsylvania, residing at 833 Longstreth Road, Warminster, Pennsylvania. (See Complaint at ¶ 1). Thus, Plaintiffs are citizens of Pennsylvania for diversity purposes.

10. For purposes of diversity jurisdiction, a corporation is considered a resident of the state in which it is incorporated and the state in which it maintains its principal place of business. 28 U.S.C. § 1332(c)(1).

11. At the time this action was commenced AHC, was and still is a Delaware corporation with its principal place of business at its headquarters located at 2200 Kensington Court, Oak Brook, Illinois. (See Complaint at ¶ 2). Thus, AHC is a citizen of Delaware and Illinois for diversity purposes.

12. Accordingly, there is complete diversity amongst the parties in interest.

13. Plaintiffs Melissa A. Sadowski and Anthony R. Sadowski have each demanded judgment in their favor against AHC in an amount in excess of \$50,000.00, plus interest and taxable costs. (See Complaint at WHEREFORE sections, Count I and Count II).

14. Plaintiff, Melissa A. Sadowski, alleges that a result of the October 3, 2018 accident at issue, she “sustained catastrophic injuries including fractures of her pelvis, multiple fractures, lacerations and partial loss of two toes on her left foot, ear/hearing issues, together with numerous bruises, contusions and lacerations about her body including, but not limited to, her

head, neck and abdomen. Plaintiff Melissa A. Sadowski also suffered a concussion.” (Id. at ¶ 10).

15. As a result of her alleged injuries, plaintiff, Melissa A. Sadowski, was “required to undergo surgery upon her pelvis and toes, received extensive physical therapy and other professional medical care and continues to require extensive physical therapy as well as continued professional medical care.” (Id. at ¶ 12). Plaintiff, Melissa A. Sadowski, further alleges that she sustained a loss of earnings and/or earning power, as well as significant medical expenses. (Id. at ¶¶ 14-15).

16. Plaintiff, Anthony R. Sadowski, alleges that a result of the accident at issue, “he has been and will continue to be deprived of the care, compassion and services of Melissa A. Sadowski and he has suffered and will in the future continue to suffer a loss of earning power.” (Id. at ¶ 20).

17. AHC, therefore, presents a good faith application to the Court that Plaintiffs’ Complaint seeks damages in excess of the amount in controversy requirement of \$75,000 in accordance with 28 U.S.C. § 1332.

VENUE

18. Plaintiffs’ action is pending in the Court of Common Pleas, Philadelphia County, Pennsylvania Trial Division, which is within this judicial district. See 28 U.S.C. § 110. This Court is thus the proper venue for removal under 28 U.S.C. §§ 1441(a) & 1445(a).

NOTICE

19. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to Plaintiffs. (A copy of the Notice of Removal will be filed with the

Prothonotary of the Pennsylvania Court of Common Pleas, Philadelphia County, Trial Division,
in the form attached hereto as Exhibit C).

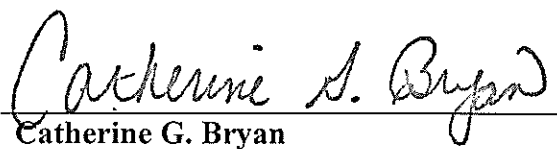
CONCLUSION

For the foregoing reasons, Defendant, Ace Hardware Corporation, respectfully demands that this action, previously pending in the Court of Common Pleas, Philadelphia County, Pennsylvania Trial Division, be removed to this Court, and that this Court proceed as if this case had been originally initiated in this Court.

Date: December 28, 2018

Respectfully submitted,

CONNELL FOLEY LLP

BY: 
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